

SEP 04 1986

STATE OF WISCONSIN
BEFORE THE ARBITRATORWISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Petition of the
INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS LOCAL 127 AFL-CIO
for Final And Binding Arbitration
Between the Petitioner and the
CITY OF LACROSSE WISCONSIN
(Fire Department)

CASE 142
No. 36069 MIA-1046
Decison No. 23693-A

I. APPEARANCES

International Association of Firefighters Local 127
Mr. Leroy Waite, Representative, IAFF AFL-CIO
Mr. Clair M. Bissen, President, IAFF Local 127
Mr. Dan Horstman, Secretary, IAFF Local 127
Mr. Nicholas Linden, Researcher, Cullen, Weston, Pines, & Bach

The City of Lacrosse
Mr. Jerome H. Rusch, City Personnel Director

II. BACKGROUND

On November 23, 1985, the International Association of Firefighters Local 127, AFL-CIO, (hereinafter called the Union) filed a petition with the Wisconsin Employment Relations Commission requesting the initiation of compulsory final and binding arbitration pursuant to Section 111.78(3) of the Municipal Employment Relations Act, for the purpose of resolving an impasse arising in collective bargaining between the Union and the City of LaCrosse, Wisconsin, (Fire Department) hereinafter called the City. An investigation into the matter was conducted by a member of the Commission's staff on January 27, 1986. The investigator, finding the parties still at impasse, advised the Commission and the parties that the investigation was closed on May 28, 1986. Subsequently, the Commission rendered a FINDINGS OF FACT, CONCLUSIONS OF LAW, CERTIFICATION OF RESULTS OF INVESTIGATION, and ORDER requiring Arbitration.

The parties selected Donald G. Chatman as Arbitrator on June 25, 1986. An Arbitration hearing was conducted at the offices of the City of LaCrosse, 400 LaCrosse Street, LaCrosse, Wisconsin, at 10:00 A.M. on July 24, 1986. At this hearing both parties were given full opportunity to present their evidence, testimony and documentation, to present witnesses and to engage in their examination and cross-examination. The hearing was adjourned until the receipt of the parties' final arguments presented in the form of written briefs by August, 10, 1986. The briefs were timely received and the hearing was closed at 5:00 P.M. on August 15, 1986. Based on the evidence, testimony, arguments and criteria set forth in Section 111.77(d) of the Municipal Employment Relations Act, the Arbitrator renders the following Award.

III. STIPULATIONS, FINAL OFFERS, AND ISSUES

The parties have stipulated to agreement on Article IV (Health Insurance), whereby the City's contribution to the medical hospital and surgical insurance policy is established at an amount of up to \$199.00 per month for a family policy and full premium for any individual covered by the City's group policy. The full language of this article is attached as Appendix C. In addition, the parties have stipulated to a longevity plan which is Attached as part of the Union's final offer (Appendix A). In the submission of final offers the Union is proposing a 5.0% wage increase in its offer as the only remaining issue in dispute between the parties (Appendix A). The City in its final offer is proposing a 2.5% wage increase as the only remaining issue in dispute between the parties (Appendix B). The parties stipulate no other issues are in

contention which would prevent the resolution of a successor agreement.

IV. CONTENTIONS OF THE PARTIES

The Union contends its final offer position ought to be sustained because LaCrosse is larger than the average city in its comparable group in both population and land area. Yet, the City historically has been the lowest of the comparable municipalities in pay and the Union maintains its final offer continues that position. The Union contends the final offer of the City not only continues to maintain the employees last place position but further erodes their salary ranking with other comparable municipalities. The Union argues its final offer comes closest to the average dollar and percentage increase for top Firefighters, Engineers and Captains in the comparable groups. The Union asserts that while its final offer percentage increase may be greater than comparable municipalities, the smaller base salary for such increase makes the actual dollar amount comparable. Conversely, the Union argues that the City's final offer is so much less than the average increase of comparable municipalities that it further erodes the relative position of Fire department personnel in comparison to comparable departments.

The City contends that most of the comparable cities have multi-year agreements which cause higher settlements due to speculative determination of the future work environment. The City offered testimony that it has not and does not wish to engage in multi-year contracts. The City maintains that since the Union presented no argument on greater productivity for their wage increase it assumes any increase in wages is only to meet inflationary costs. The City concedes it is the lowest in pay of any comparable municipality, but argues that the private sector production workers pay in this city is the lowest for any comparable municipality. The City contends that LaCrosse firefighters have the most generous longevity payment program of comparable cities, and such a program must be considered part of overall pay of employees. The City argues that past history has shown equal offers to all uniformed services (police, firefighter), and because there is no Social Security contribution paid by firefighters, the take home pay is over seven percent higher than a LaCrosse police officer. The City maintains that its wages and benefits are competitive since no firefighter has quit in the last five years. The only vacancies are the results of retirements and disabilities. The City maintains that "there is no reason to increase wages beyond inflation rates to remain competitive in the LaCrosse job market". The City argues that the recent implementation of the Fair Labor Standards Act to municipalities, including the City of LaCrosse, applies to the City's firefighters. They maintain that the cost impact for overtime on the California 56 work schedule averages 2.3% of firefighter payroll. The City states that several meetings were held involving the California 56 work schedule and resulting overtime accumulation, and the City does not wish to implement any compensatory time practice, but agreed to continue this work schedule. Finally, the City contends that with the cessation of the Federal Revenue Sharing Program in U.S. fiscal 1987, the city could lose as much as a million dollars, which may result in a tax increase to compensate for this loss. The City maintains that because of the aforementioned circumstances the only guideline to consider is the maintenance of living standard as reflected by the Consumer Price Index, which the City's final offer and agreed upon benefits exceed.

V. DISCUSSION

After a review of the data presented by both sides there is no conflict in the statement that LaCrosse is last among comparable municipalities. Whether the Arbitrator considers Wisconsin cities alone or whether Minnesota cities in close proximity and Wisconsin cities are considered as comparables, this city is last. The Union's expansion of comparable cities to include Minnesota municipalities is not accepted, because no evidence was presented

to demonstrate that Minnesota communities are similar in revenue generation, charter empowerment, or operational freedom. Among Wisconsin municipalities considered as comparables the Union and City list is similar with two exceptions. The Union has included the Cities of Janesville and Wausau, while the City has excluded them as not comparable. The Arbitrator deems that for the sake of similarity of comparison the comparable municipalities will be Appleton, Beloit, EauClaire, Fond du Lac, Oshkosh, Sheboygan, and LaCrosse. With the selection of these comparables the examination of the data shows LaCrosse to be last or near last in salary comparisons. It is also evident that the selection of either the Union's or the City's final offer will maintain LaCrosse's position among these comparable municipalities. The Union's final offer of 5.0%, while greater than the percentage increase in comparable cities, is within the dollar amount agreed to by these cities because of lower base salaries. The City's argument that the Union provided no documentation or argument for greater productivity to substantiate a wage request greater than the CPI is specious. The City presented no specifics as to what it means by greater productivity. The question might reasonably be raised as to whether the City really desires greater productivity from firefighters.

The City's argument that its pay for firefighters is in line with the comparable pay received by private sector production workers has merit and is noted (City exhibit 3). The data show LaCrosse Production workers earn an average of 14.4% less than highest paid private sector comparable production worker and 8.6% less than the average comparable production worker in 1985. When this same type of comparison is made for firefighters in these same cities (City exhibit 3) the data show the top level LaCrosse firefighter earned 13.5% less than the highest paid top fire fighter and 9.9% less than the average top firefighter wage in comparable municipalities in 1985. In comparing the 1986 firefighters' wage offers of comparable cities the data show that the City's final offer would pay this municipality's top firefighters 18.0% less than the highest paid comparable city, and 13.4% less than the average wage of the comparable cities. This includes incorporation of the City's final offer as part of the calculation. The Union's final offer is 16.0% less than the highest top firefighters wage and 11.3% below the average salaries for top firefighters in comparable cities. Neither final offer improves the relative position of firefighters with their related comparables. On this point the Union's offer is favored.

The City asserts that the longevity paid to employees is part of the salary package and its longevity payments are better than other comparables. However, when data on longevity are compared to other cities in its group, this agreement is not the most generous but is actually fourth out of seven when counting actual dollars received. Since over half of the department receives longevity a comparison is made with longevity and wage against comparable longevity and wage. When this comparison is made the wage position of LaCrosse firefighters is not improved. This argument, based on the data presented, is not given any merit. The City's assertion that it can maintain its work force at a recent consumer price index wage increase is noted. However, an examination of the comparison data over the past five years (City exhibit 4) shows that the City is below average among comparables in wage increases and below the CPI change over the period 1981-1985. Thus, the City's argument is weakened by a failure to utilize the CPI as a reference mechanism at any other time during this period. The City's assertion that the imposition of the Fair Labor Standards Amendment of 1985, which has caused a 2.3% increased cost, is a wage increase to employees is not meritable. While the parties have discussed the work period and are presently engaged in a work schedule that is satisfactory to them at this time, this is not a wage increase. The provisions of Article XX (Reservation of Rights) of the existing agreement and stipulated in the successor agreement appears to be the controlling provision.

ARTICLE XX
RESERVATION OF RIGHTS

The City retains all of the rights, powers and the authority exercised or had by it prior to the time the union became the Collective Bargaining Representative of the employees here represented except as specifically limited by express provisions of this agreement. The powers, rights and/or authority herein claimed by the City are not to be exercised in a manner that will undermine the Union or as an attempt to evade the provisions of this agreement or to violate the spirit, intent or purposes of this agreement. It is, therefore, agreed that except as otherwise specifically provided herein, the Management of the City of LaCrosse and the Direction of the work force, including but not limited to the right to hire, to decide initial job qualifications, to lay off for lack of work or funds, to abolish positions to make reasonable rules and regulations governing conduct and safety, to determine schedule of work, to subcontract work, together with the right to determine the methods, processes and manner of performing work, are vested exclusively in Management.

New rules or changes in rules shall be posted in each Fire Station five (5) calendar days prior to their effective date unless an emergency requires a more rapid implementation of the rule.

Thus, whether the City pays overtime or not is entirely up to the City. Given the City's assertion on the ease of acquiring capable human resources the implementation of overtime pay is vested exclusively in management.

The City has not asserted an inability to pay the cost of either final offer, but offers as evidence the possible loss of one million dollars in future federal revenue sharing funds. The City presented no evidence as to what portion of city revenue this potential loss represented or whether such potential loss was distributed over several municipal operations or focused in one department. However, one important aspect of federal revenue sharing with local political sub-divisions was the active discouragement or prohibition of constant fund use for on-going operational expenses such as salaries. Thus, while the loss of federal revenue funds is a distinct possibility such loss has no application to the salaries and benefits of an on going municipal service such as firefighting.

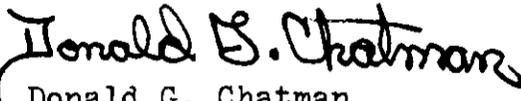
In summary, the decision on which final offer should be selected appears to revolve around which final offer is the most equitable when compared to the provisions of 111.77(6). When considering this provision and the data presented by the parties the lawful authority of the City is not in question. The City has presented no documented argument asserting an inability to pay the Union's final offer request. A comparison of the wages, hours and conditions of employment for these firefighters with comparable firefighters shows them to be below the average wage, equal in hours of work, and slightly below average in benefits with comparable cities. The Union's current wages are comparable or slightly above the average wage for area private sector employees. A comparison with the CPI indicates that the City's final offer exceeds the current CPI but has historically been below the CPI in the past. Thus, the firefighters have not kept pace over the most recent five years. It does not appear reasonable to utilize the CPI as a major determinant for a wage increase for this most recent period, when it has not been used as a determinant of wage increases in the past. The final offers of either party will cause a widening and diminution from the comparable salaries of other firefighters. Since the Union's final offer is not as regressive as the City's, it is the more preferred offer. The City was not persuasive in its arguments that fringe benefits, longevity, and overtime were inclusive factors in bringing equity to its final

offer.

VI AWARD

The 1986 Agreement between the International Association of Firefighters Local 127, AFL-CIO and the City of LaCrosse (Fire Department) shall contain the mutual stipulations of the parties and the final offer of the Union.

Dated this 4 th day of September, at Menomonie, Wisconsin.


Donald G. Chatman
Arbitrator.

Act pursuant to S895.60 of the Wis. Statutes. The City shall select the Health Maintenance Organization.

The spouse of dependents of an employee who dies before the employee or spouse become eligible for Medicare shall be eligible to continue to participate in the health insurance program at the level immediately preceding the employee's death. The City shall continue to pay the employee's share of the health insurance premium until the spouse becomes eligible for Medicare or remarries. This provision becomes effective January 1, 1985.

All employees who receive health insurance benefits shall provide the City with a notice form agreed to by the parties for covered medical bills to avoid the wrongful payment of benefits.

Appendix C

ARTICLE IV HEALTH INSURANCE

The City contribution to the medical, hospital and surgical insurance policy is established at an amount up to ~~\$183.00~~\$199.00 per month for a family policy and full premium for any individual covered by the City's group policy provided, however, the premium contribution by the City shall not exceed ~~\$183.00~~\$199.00 per month for any such individual policy. Employees who are participants in the health insurance program and retire at age 55 or who retire because of disability at any age, and who have been employed no less than fifteen (15) years, may continue insurance coverage at group rates in the plan in which they were participating, no less than one year prior to the retirement. Such participation may continue only until the employee becomes eligible for Medicare. The City shall pay the retiree's monthly premium charge at a rate not to exceed that paid for active employees as provided above.

Effective January 1, 1983, active employees who retire and are enrolled in the City's group health insurance program and who are age sixty-five (65) or over, may remain in the group's base program at Medicare A and B carveout rates, provided such employees pay their own monthly premiums timely.

The City shall select the health insurance carrier. Coverage for medical, hospital, and surgical insurance, however, shall be no less than the coverage afforded under the Wisconsin Physicians Service; Health Maintenance Plan referred to in the order of WERC Cast XXIV, including but not limited to the following provision:

1. Payment for prescription legend drugs and medicine through use of a credit plan with participating pharmacies. The above health insurance maintenance plan shall be effective February 1, 1980.

The City shall offer to pay monthly premium charges up to ~~\$183.00~~\$199.00 on behalf of any employee who wishes to participate in an alternate health maintenance organization certified under the provisions of Title XII of the Public Health Service

Stipulated to agreement

5-19-86

OS.

T.R.



~~Joint II~~
Appendix B

Office of
JEROME H. RUSCH
Director of Personnel

City of La Crosse
La Crosse, Wisconsin
54601

May 19, 1986

FIRE

Local 127

City Final Offer

Wages: 2.5% across the board on all rates effective January 1, 1986.

Health Insurance: City to pay up to \$199 toward health insurance for family policy holders and continue to pay all of single policy holders effective January 1, 1986.

*Stipulated
by parties
5/19/86*

All other language stipulations as proposed on January 31, 1986.

Fire Department Salaries

1986

Effective 1/1/86

5.00%

	A	B	C	D
Captain	\$2,027.73			\$2,027.73
Supt. of Fire Alarm	\$2,027.73			\$2,027.73
Lt. of Inspection	\$2,022.43			\$2,022.43
Lieutenant	\$1,934.17			\$1,934.17
Ass't Mechanic	\$1,934.17			\$1,934.17
Lineman	\$1,934.17			\$1,934.17
Clerk	\$1,714.03	\$1,751.51	\$1,788.93	\$1,863.76
Engineer	\$1,697.68	\$1,735.14	\$1,772.58	\$1,847.44
Houseman	\$1,674.18	\$1,711.59	\$1,749.07	\$1,823.96
Firefighter	\$1,656.80	\$1,694.21	\$1,731.67	\$1,806.57

Longevity Plan

In addition to the pay rates listed, the following pay shall be in effect

- After 10 years of service salary increased 3 percent
- After 15 years of service salary increased 6 percent
- After 20 years of service salary increased 9 percent

City Fire Fighters Union

LOCAL NO. 127
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Appendix A

La Crosse, Wisconsin 54601

Member Professional Fire Fighters of Wisconsin
Member La Crosse Trades and Labor Council
Member Wisconsin State Federation of Labor

U. 9247

May 19, 1936

This agreement between the I.A.F.F. - Local 127 and the City of La Crosse, Wis shall include the contract computer run dated 1-30-37 and the articles contained in the same, excluded from this agreement shall be ~~Articles 13 and 14~~ and Art. 13 (Salaries).

Articles ~~13 and 14~~ 13 shall be the arbitrated issues.

Local 127 - I.A.F.F.

Walter M. Sullivan

Walter M. Sullivan

John P. Murphy

City of La Crosse

James M. ...

Articles to ... 1936 ...